

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>		EFFECTIVE DATE 11/03/2003	NUMBER 03.01.105
SUBJECT DISCIPLINARY TIME		SUPERSEDES 03.01.105 (11/13/00)	
		AUTHORITY MCL 791.203; 800.34; Administrative Rule 791.5515 ACA STANDARDS 3-4094; 3-4407	
		PAGE 1 OF 3	

#### **POLICY STATEMENT:**

Prisoners serving sentences which are subject to disciplinary time shall not earn any sentence reduction credits on those sentences. However, they shall accumulate disciplinary time for major misconduct as set forth in this policy.

#### **RELATED POLICIES:**

03.01.100      Good Time Credits  
03.01.101      Disciplinary Credits/Drug Law Credits

#### **POLICY:**

#### GENERAL INFORMATION

- A. For purposes of this policy, "Warden" includes the Warden of the Huron Valley Facility for prisoners in the Huron Valley Center, the Warden of the Oaks Correctional Facility for prisoners in the Michigan Youth Correctional Facility and the Deputy Director of Correctional Facilities Administration (CFA) for prisoners serving a Michigan sentence in another jurisdiction.
- B. Prisoners sentenced for offenses identified on Attachment A which were committed on or after December 15, 1998 are subject to disciplinary time for that offense. Prisoners sentenced for any offense committed on or after December 15, 2000 are subject to disciplinary time for that offense. Prisoners serving sentences subject to disciplinary time are not eligible to receive good time, disciplinary credits or drug law credits on either the minimum or maximum sentence for that offense. Instead, such prisoners shall accumulate disciplinary time at the rate set forth in Administrative Rule 791.5515 for each finding of guilt on a major misconduct. The amount of accumulated disciplinary time is not added to the minimum sentence imposed by the court, but must be considered by the Parole Board at the time of the parole review or interview.
- C. Prisoners serving sentences subject to disciplinary time who are classified to Community Residential Programs pursuant to PD 06.03.101 "Community Residential Program - Prisoner Placement and Transfer" may be placed in CRP only after the minimum terms of all sentences subject to disciplinary time have been served.

#### TIME CALCULATION

- D. When a prisoner serving a sentence subject to disciplinary time is received by the Department, the prisoner's "Truth in Sentencing" (TIS) minimum and maximum release dates shall be calculated. These dates shall be calculated to include only days for which jail credit was granted. No other credits shall apply. The TIS minimum and maximum release dates shall be identified on the prisoner's Basic Information Sheet (form CSX-117) and entered on the Department's computerized database (e.g., CMIS; OMNI). If the prisoner is serving for a drug offense for which s/he is eligible for parole prior to the TIS minimum under PD 06.05.104 "Parole Release Process", that parole eligibility date also shall be identified on the Basic Information Sheet and entered on the computerized database.
- E. At least annually, each prisoner serving a sentence subject to disciplinary time shall be issued a Time

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/03/2003	NUMBER 03.01.105	PAGE 2 OF 3
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Review & Disposition Form (CSX-482) reflecting the prisoner's TIS release dates and the total amount of disciplinary time accumulated. If the prisoner is serving for a drug offense for which s/he is eligible for parole prior to the TIS minimum under PD 06.05.104, the parole eligibility date also shall be included. A revised Time Review & Disposition Form shall be issued to a prisoner, and the computerized database updated, whenever the prisoner's accumulated disciplinary time is reduced or reapplied.

- F. A computerized time computation program shall be maintained to record the amount of disciplinary time accumulated, reduced or reapplied on each sentence subject to disciplinary time.
- G. The Records Administrator in Administration and Programs shall maintain a Time Computation Manual providing specific instruction on calculating sentences of prisoners serving sentences subject to disciplinary time. The manual shall be distributed to Record Office supervisors.

#### ACCUMULATION OF DISCIPLINARY TIME

- H. A prisoner who is serving a sentence subject to disciplinary time who is found guilty of a major misconduct shall automatically accumulate disciplinary time as set forth in Administrative Rule 791.5515 on all sentences s/he is serving which are subject to disciplinary time. If a prisoner serving a sentence subject to disciplinary time also is serving a sentence subject to good time credits, disciplinary credits or drug law credits, credits on that sentence may be forfeited for the misconduct as set forth in PD 03.01.100 "Good Time Credits" and PD 03.01.101 "Disciplinary Credits/Drug Law Credits".
- I. A prisoner's minimum sentence plus accumulated disciplinary time shall not exceed his/her maximum sentence. Thus, when a prisoner has accumulated disciplinary time equal to the difference between his/her minimum and maximum sentence, disciplinary time will no longer accumulate on that sentence.

#### REDUCTION OF ACCUMULATED DISCIPLINARY TIME

- J. Accumulated disciplinary time may be reduced only for one of the following reasons:
  - 1. The prisoner has engaged in a specific meritorious or exemplary act (e.g., coming to the aid of staff, preventing an escape).
  - 2. The prisoner has demonstrated behavior that exceeds routine compliance with facility rules. This includes not having been found guilty of major misconduct for at least the preceding year. In CFA, it also includes having received good to excellent reports from the prisoner's housing unit and for all assignments for at least the preceding year.
- K. Accumulated disciplinary time shall not be reduced if the time was added due to any of the following major misconducts:
  - 1. Escape, if the escape was from a secure facility.
  - 2. Homicide.
  - 3. Assault resulting in serious physical injury.
  - 4. Possession of a weapon.
  - 5. Sexual assault.
  - 6. Incite to riot or strike; rioting or striking.
  - 7. Attempt, accomplice, or conspiracy to commit any of the above.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 11/03/2003	NUMBER 03.01.105	PAGE 3 OF 3
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- L. If an eligible prisoner wants to be considered for a reduction in accumulated disciplinary time, s/he must submit a written request to the Warden or Field Operations Administration (FOA) Regional Administrator, or designee, as appropriate. A request may only be submitted when the prisoner is within nine months of his/her earliest release date for parole or CRP placement, or within nine months of parole consideration on a Parole Board continuance. Requests will not be considered at any other time.
- M. If the Warden or FOA Regional Administrator supports a reduction in the prisoner's accumulated disciplinary time, s/he shall forward the recommendation, including the amount of time to be reduced and the basis for the recommendation, through the chain of command to the appropriate Deputy Director for review. If the Deputy Director concurs with the recommendation, it shall be referred to the Director for a final decision. The appropriate Deputy Director shall be advised of the final decision and ensure that the Warden or FOA Regional Administrator also is advised. If a reduction is approved by the Director, a revised Time Review & Disposition Form shall be issued to the prisoner indicating the amount of disciplinary time reduced. This information also shall be entered on the Department's computerized database.

#### REAPPLICATION OF DEDUCTED DISCIPLINARY TIME

- N. If a prisoner who has had accumulated disciplinary time reduced is subsequently found guilty of any major misconduct, the Warden or FOA Regional Administrator shall immediately forward the case through the chain of command to the Director. The Director shall determine the amount, if any, of previously reduced disciplinary time that will be reapplied. The Warden or FOA Regional Administrator, as appropriate, shall be notified of this determination. If disciplinary time is reapplied, a revised Time Review & Disposition Form shall be issued to the prisoner indicating the amount of disciplinary time reapplied. This information also shall be entered on the Department's computerized database.

#### OPERATING PROCEDURES

- O. CFA Regional Administrators and the FOA Deputy Director shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

#### AUDIT ELEMENTS

- P. A Primary Audit Elements List has been developed and will be provided to Wardens and FOA Regional Administrators to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

PLC:OPH:10/06/03

DOCUMENT TYPE PD ATTACHMENT	EFFECTIVE DATE 11/03/2003	NUMBER 03.01.105A	PAGE 1 OF 2
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## ATTACHMENT A

Prisoners serving a sentence for any of the following offenses, including an attempt, conspiracy or solicitation to commit the offense, are subject to disciplinary time if the offense was committed on or after December 15, 1998:

<u>MCL</u>	<u>OFFENSE</u>
257.625(4)	Operating a motor vehicle under the influence of intoxicating liquor or controlled substance - causing death
257.625(5)	Operating a motor vehicle under the influence of intoxicating liquor or controlled substance - causing incapacitating injury
324.80176(4)	Operating a vessel under the influence of intoxicating liquor or a controlled substance - causing death
324.80176(5)	Operating a vessel under the influence of intoxicating liquor or a controlled substance - causing incapacitating injury
333.7401(2)(a)(i)	Manufacture/delivery of 650 grams or more of a Schedule 1 or 2 drug
333.7403(2)(a)(i)	Possession of 650 grams or more of a Schedule 1 or 2 drug
333.7413(1)	Controlled substance; second or subsequent offense
462.257(1)	Attempt to cause derailment
750.10a	Sexually delinquent person
750.49(8)	Animals; fighting, baiting or shooting; dogs trained for fighting; causing death of a person
750.72	Burning dwelling house
750.73	Burning of other real property
750.80	Setting fire to mines and mining material
750.82	Felonious assault
750.83	Assault with intent to commit murder
750.84	Assault with intent to do great bodily harm less than murder
750.86	Assault with intent to maim
750.87	Assault with intent to commit felony not otherwise punished
750.88	Assault with intent to rob and steal; unarmed
750.89	Assault with intent to rob and steal; armed
750.90	Sexual intercourse under pretext of medical treatment
750.91	Attempt to murder
750.110a(2)	Breaking and entering a dwelling; home invasion; first degree
750.112	Burglary with explosives
750.136b(2)	Child abuse; first degree
750.145c	Child sexually abusive activity or material
750.157b(2)	Solicitation of murder
750.204	Sending explosives with intent to injure persons
750.204a	Sending or transporting device represented or presented as an explosive, incendiary device, or bomb
750.205	Placing explosives with intent to destroy; no resulting damage
750.205a	Intimidation or harassment by device represented or presented as an explosive, incendiary device, or bomb
750.206	Placing explosives with intent to destroy causing damage to property
750.207	Placing explosives with intent to destroy causing injury to any person
750.208	Placing explosives; aiding and abetting with intent to destroy
750.210	Possession of bomb with intent to use unlawfully
750.211	Explosives; manufacture, etc. with intent to use unlawfully
750.211a	Device designed to explode upon impact, upon application of heat or device highly incendiary; possession with intent to use unlawfully
750.213	Malicious threats to extort money
750.260	Counterfeiting and possession of coins
750.316	First degree murder
750.317	Second degree murder

DOCUMENT TYPE PD ATTACHMENT	EFFECTIVE DATE 11/03/2003	NUMBER 03.01.105A	PAGE 2 OF 2
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### ATTACHMENT A (cont'd)

#### MCL

#### OFFENSE

750.319	Death as result of fighting a duel
750.321	Manslaughter
750.322	Manslaughter; wilful killing of unborn quick child
750.327	Death due to explosives
750.328	Death due to explosives; placed with intent to destroy building or object
750.329	Death, firearm pointed intentionally, but without malice
750.349	Kidnaping
750.349a	Prisoner taking another as a hostage
750.350	Kidnaping; child under 14
750.357	Larceny from a person
750.397	Mayhem
750.411i	Aggravated stalking
750.436(2)	Poisoning food, drink, medicine, wells, etc.; infliction of great bodily injury
750.479b	Taking firearms or other weapons from peace officers and corrections officers
750.511	Attempt to wreck or endanger safety of passengers
750.516	Forcible detention of railroad train
750.517	Entering train for robbing by means of intimidation
750.520b	First degree criminal sexual conduct
750.520c	Second degree criminal sexual conduct
750.520d	Third degree criminal sexual conduct
750.520e	Fourth degree criminal sexual conduct
750.520f	Second or subject offenses - criminal sexual conduct
750.520g	Assault with intent to commit criminal sexual conduct
750.529	Armed robbery; aggravated assault
750.529a	Carjacking
750.530	Unarmed robbery
750.531	Bank, safe and vault robbery
750.544	Treason
752.191	Felonious driving
752.541	Riot
752.542	Incitement to riot
752.542a	Rioting; state correctional facilities
767A.9(1)(b)	Perjury; contempt

- # A violation of MCL 750.157c "Recruiting or inducing a minor to commit a felony" if the underlying felony is punishable by a life sentence.
- # A violation of MCL 333.7416 "Recruiting or inducing a minor to commit a felony" if the underlying felony is a violation of MCL 333.7401(2)(a)(i).
- # A violation of MCL 750.188 "Voluntarily suffering prisoner to escape" if the prisoner is serving a life sentence or was charged with an offense punishable by a life sentence.
- # A violation of MCL 750.422 "Perjury committed in courts" if the perjury was committed in the trial of an offense punishable by death.
- # A violation of MCL 750.92 "Attempt to commit a crime", MCL 750.157a(a) "Conspiracy to commit offense or legal act in illegal manner" or MCL 750.157b(3) "Solicitation of felony" if the underlying felony is an offense identified in this Attachment.
- # A habitual offender sentence, pursuant to MCL 769.10, 769.11 or 769.12, if the vacated conviction is for an offense identified in this Attachment, including attempt, conspiracy or solicitation to commit the offense.